IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.M.No.19556 of 2004 and
C.W.P.No.10298 of 2004

Date of Decision: May 10, 2007

Lalit Mohan

.....Petitioner

versus

Bharat Sanchar Nigam Limited and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE J.S.KHEHAR.

HON'BLE MR.JUSTICE L.N.MITTAL.

Present: Mr.D.R.Sharma, Advocate,
for the applicant-respondents.

Mr.D.S.Patwalia, Advocate,
for the non-applicant-petitioner.

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J.S.KHEHAR,J.(Oral)

C.M.No.19556 of 2004

Learned counsel for the applicant-respondents states that at the time when this Court passed the interim order on 17.07.2004, it did not take into consideration the statutory rules regulating promotion to the post of J.T.O. It is also the contention of the learned counsel for the applicant-respondents that the same was the position when the interim order was passed in CWP No.4097 of 2004.

The primary basis on which the applicant-respondents press their claim for vacation of the interim order passed in favour of the petitioner is that the Junior Telecom Officer Recruitment Rules, 1999

(hereinafter referred to as the '1999 Rules') came to be enforced on 31.08.1999. It is also the contention of the learned counsel for the applicant-respondents that the claim of the petitioner for promotion to the post of J.T.O. is based on the Junior Telecom Officer Recruitment Rules, 1996 (hereinafter referred to as the '1996 Rules') which came to be superseded by the 1999 Rules with effect from 31.08.1999.

In view of the aforesaid factual position, learned counsel for the applicant-respondents states that the non-applicant-petitioner in order to establish his claim to the post of J.T.O. must establish that he was eligible for promotion as such during the subsistence of the 1996 Rules i.e. till 31.08.1999.

Learned counsel for the non-applicant-petitioner does not dispute the fact that the claim of the petitioner is based on the 1996 Rules. He also does not dispute that the aforesaid Rules continued to be applicable till they were superseded w.e.f. 31.08.1999 by the 1999 Rules. It is also acknowledged by the learned counsel for the non-applicant-petitioner that the petitioner is not eligible for promotion to the post of J.T.O. under the 1999 Rules.

In view of the above, it is imperative for us to determine the rights of the petitioner under the 1996 Rules so as to eligible for promotion under the 1996 Rules. In this behalf it will be necessary for the petitioner to establish that the petitioner fulfilled all conditions of eligibility for promotion as J.T.O. by 31.08.1999.

It is vehement contention of the learned counsel for the applicant-respondents that the petitioner did not satisfy 6 years regular service mandatorily required for promotion to the post of J.T.O. on 31.08.1999. Having perused the order dated 30.06.2004/05.07.2004 (Annexure P-19), we are satisfied that the petitioner had only 4 years, 9

months and 24 days of regular service as on 31.08.1999.

In view of the above, it is also evident that the petitioner did not satisfy the requirement of 6 years on 31.08.1999. Thus, we are prima facie of the view that the petitioner was ineligible for promotion to the post of J.T.O. under the 1996 Rules till they continued to be operational i.e. till 31.08.1999. Having arrived at the conclusion that the petitioner was prima facie ineligible for promotion to the post of J.T.O. on 31.08.1999, we are also satisfied that the interim order passed by this Court on 17.07.2004 deserves to be vacated.

Ordered accordingly.

It would be pertinent to mention here that learned counsel for the non-applicant-petitioner during the course of arguments repeatedly asserted that there was no mandatory requirement under the 1996 Rules whereunder the petitioner should have completed 6 years of regular service for promotion as J.T.O. prior to 31.08.1999. This proposition obviously cannot be determined by us as at this stage and the same will have to be adjudicated during the course of regular arguments.

C.W.P.No.10298 of 2004

Admitted.

(J.S.KHEHAR)
JUDGE

(L.N.MITTAL)
JUDGE

May 10, 2007
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